

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

RUTH BELL THOMAS,

Plaintiff,

v.

THE CITY OF SEATTLE, et al.,

Defendants.

CASE NO. C04-1342JLR

ORDER

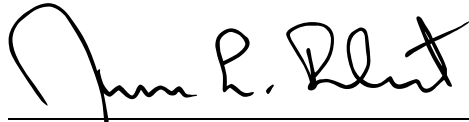
The court has received Defendants' Motion for Reconsideration of the court's order dated April 20, 2005. (Dkt. #23). The court has reviewed the motion and DENIES it to the extent it requests reconsideration of the court's order.

Pursuant to Local Rules W.D. Wash. CR 7(h)(1), motions for reconsideration are disfavored, and will ordinarily be denied unless there is a showing of (a) manifest error in the prior ruling, or (b) facts or legal authority which could not have been brought to the attention of the court earlier, through reasonable diligence. Defendants' motion does not meet either standard.

The court GRANTS Defendants' motion to the extent it requires clarification of the court's order. Defendants argue that the court committed manifest error and misapplied the qualified immunity standard when it stated that "factual disputes prevent

1 the court from ruling, as a matter of law, that Officer Martin reasonably believed his  
2 conduct was lawful.” Order at 7. The court clarifies the order as follows: Assuming that  
3 Ms. Thomas’ allegations about Officer Martin’s conduct are true, the court finds that no  
4 reasonable officer would have believed that his conduct was lawful. See, e.g., Saucier v.  
5 Katz, 533 U.S. 194, 200 (2001); Deorle v. Rutherford, 272 F.3d 1272, 1286 (9th Cir.  
6 2001) (“[I]t is not necessary that the alleged acts have been previously held  
7 unconstitutional, as long as the unlawfulness was apparent in light of existing law.”);  
8 Palmer v. Sanderson, 9 F.3d 1433, 1436 (9th Cir. 1993). Thus, the court holds that  
9 Officer Martin is not entitled to summary judgment on his qualified immunity defense.  
10 The court cannot resolve the ultimate applicability of the defense until trial. Ortega v.  
11 O’Conner, 146 F.3d 1149, 1156 (9th Cir. 1998) (describing a procedure for resolving  
12 disputed facts relevant to qualified immunity defense); Acosta v. San Francisco, 83 F.3d  
13 1142, 1147 (9th Cir. 1996) (same).

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15 Dated this 10th day of May, 2005.

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19 JAMES L. ROBART  
20 United States District Judge  
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